

Adopted	Rejected
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COMMITTEE REPORT

YES:	7
NO:	0

MR. SPEAKER:

*Your Committee on Insurance, to which was referred House Bill 1626, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 27-1-6-0.4 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2009]: **Sec. 0.4. As used in this chapter with respect to a**
- 5 **corporation described in section 1(b) of this chapter, "corporate**
- 6 **officer" or "incorporator" refers to the chief executive or chief**
- 7 **financial officer of a municipality described in section 1(b) of this**
- 8 **chapter.**
- 9 SECTION 2. IC 27-1-6-0.6 IS ADDED TO THE INDIANA CODE
- 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 11 1, 2009]: **Sec. 0.6. As used in this chapter, "municipality" has the**
- 12 **meaning set forth in IC 36-1-2-11.**
- 13 SECTION 3. IC 27-1-6-1 IS AMENDED TO READ AS FOLLOWS
- 14 [EFFECTIVE JULY 1, 2009]: **Sec. 1. (a) Except as provided in**

subsection (b), any number of natural persons, not less than seven (7), all of whom are eighteen (18) years of age or older, at least a majority of whom are residents of the state of Indiana and citizens of the United States, may form a corporation under the provisions of this chapter for the purpose of making any kind or kinds of insurance described in any one **(1)** class set out in IC 27-1-5-1, other than reciprocal, farm mutual, fraternal, and assessment insurance, by complying with the provisions of this chapter.

(b) One (1) or more Indiana municipalities may form a corporation as a domestic mutual company under this chapter for purposes of making any kind or kinds of insurance described in any one (1) class set out in IC 27-1-5-1 (other than reciprocal, farm mutual, fraternal, and assessment insurance) available to Indiana municipalities.

SECTION 4. IC 27-1-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. **(a) This section does not apply to a domestic mutual company described in section 1(b) of this chapter.**

~~(a)~~ **(b)** Except as provided in subsection ~~(b)~~, **(c)**, a domestic mutual company that organized before July 1, 1977, must maintain a surplus of not less than two hundred fifty thousand dollars (\$250,000). This subsection does not apply to a standard farm mutual insurance company that is organized under IC 27-5 (before its repeal) or IC 27-5.1.

~~(b)~~ **(c)** A domestic mutual company that organized before July 1, 1977, must maintain a surplus of not less than:

(1) seven hundred fifty thousand dollars (\$750,000), if it markets one (1) or more kinds of insurance under both Class II and Class III, other than Class II(k) insurance;

(2) one million dollars (\$1,000,000), if it markets one (1) or more kinds of insurance under Class II, including Class II(k) insurance; or

(3) one million dollars (\$1,000,000), if it markets one (1) or more kinds of insurance under both Class II and Class III, including Class II(k) insurance.

~~(c)~~ **(d)** A domestic mutual company that organized after June 30, 1977, must maintain a surplus of not less than one million two hundred fifty thousand dollars (\$1,250,000). However, when it organizes, it

1 must:

2 (1) have a surplus of not less than two million dollars
3 (\$2,000,000);

4 (2) for the one (1) or more kinds of insurance under Class I that
5 it intends to market, have received applications for insurance from
6 not less than four hundred (400) persons, each application for an
7 amount not less than one thousand dollars (\$1,000), and have
8 received the first year's premium due on a policy to be issued on
9 each such application; and

10 (3) for the one (1) or more kinds of insurance under Class II or
11 Class III that it intends to market, have received applications for
12 insurance covering not less than eight hundred (800) separate
13 risks in not less than forty (40) policies to be issued to not less
14 than forty (40) members, and have received premiums amounting
15 to not less than one hundred thousand dollars (\$100,000) for those
16 policies.

17 ~~(d)~~ (e) A domestic mutual company must deposit with the
18 department in cash or in obligations of the United States:

19 (1) twenty-five thousand dollars (\$25,000), if it organized before
20 June 30, 1955;

21 (2) fifty thousand dollars (\$50,000), if it organized after June 29,
22 1955, and before March 7, 1967; or

23 (3) one hundred thousand dollars (\$100,000), if it organized after
24 March 6, 1967.

25 This subsection does not apply to a standard farm mutual insurance
26 company that is organized under IC 27-5 (before its repeal) or
27 IC 27-5.1.

28 ~~(e)~~ (f) If the commissioner determines that the continued operation
29 of a domestic mutual company may be hazardous to the policyholders
30 or the general public, the commissioner may, upon the commissioner's
31 determination, issue an order requiring the insurer to increase the
32 insurer's capital and surplus based on the type, volume, and nature of
33 the business transacted.

34 SECTION 5. IC 27-1-6-15.1 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2009]: **Sec. 15.1. (a) A domestic mutual company described in**
37 **section 1(b) of this chapter must maintain a surplus of at least one**
38 **million two hundred fifty thousand dollars (\$1,250,000). However,**

when the company organizes, the company must:

(1) have:

(A) a surplus of at least two million dollars (\$2,000,000);

and

(B) applications for insurance from at least twenty (20) municipalities, each application for an amount of at least fifty thousand dollars (\$50,000);

(2) for the one (1) or more kinds of insurance under Class I that the company intends to market, have received:

(A) applications for insurance from at least one hundred (100) individuals, each application for an amount of at least five thousand dollars (\$5,000); and

(B) the first year's premium due on a policy to be issued on each application; and

(3) for the one (1) or more kinds of insurance under Class II or Class III that the company intends to market, have received:

(A) applications for insurance covering at least forty (40) policies to be issued; and

(B) premiums amounting to at least five hundred thousand dollars (\$500,000) for the policies.

(b) A domestic mutual company described in section 1(b) of this chapter shall deposit with the department, in cash or in obligations of the United States, one hundred thousand dollars (\$100,000).

(c) If the commissioner determines that the continued operation of a domestic mutual company described in section 1(b) of this chapter may be hazardous to the policyholders or the general public, the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to increase the insurer's capital and surplus based on the type, volume, and nature of the business transacted.

SECTION 6. IC 27-1-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) After the department has ascertained the net reserve value of all policies (as defined in section 9 of this chapter) or the reserve liabilities (as defined in section 10 of this chapter) of any life insurance company organized and doing business in this state, the department shall notify said company of the amount or amounts thereof. Within sixty (60) days after

the date of such notification, the officers of such company shall deposit with the department, solely for the security and benefit of all its policyholders, assets in an amount, invested in accordance with section 2 of this chapter (except paragraph 20 of section 2(b) of this chapter) which together with the assets already deposited with the department and such additional assets as may be deposited by said company with other states or governments, pursuant to the requirements of the laws of such other states or governments in which said company is doing business, shall be not less than the lesser of the amount of such reserve value or reserve liabilities or the amount provided under subsection (f). No life insurance company organized under this article or any other law of this state shall be required to make such deposit until the amount prescribed by this subsection exceeds the amount deposited by said company under IC 27-1-6-14, ~~or~~ IC 27-1-6-15, **or IC 27-1-5-15.1**. Investments in real estate shall be deposited in the form of satisfactory evidences of ownership. The deposit requirement in relation to policy loans and bank deposits shall be considered fulfilled by the inclusion of such item in the company's annual statement, but subject to the right of the company at any time, and the obligation of the company on demand of the department, to file with the department a certificate as to the amount of such item.

(b) If the department in the course of the year ascertains that the net reserve value of a company's policies (as defined in section 9 of this chapter) or its reserve liabilities (as defined in section 10 of this chapter) exceeds such company's deposits as required by subsection (a), it may require such company within sixty (60) days to increase its deposit to the required amount.

(c) Nothing in this article shall prevent the deposit of bonds, mortgages, or other securities which meet the investment requirements of a foreign or alien state or country, to an amount not exceeding the amount of the reserves on policies issued to residents of, and to corporations doing business in, such state or country. If, pursuant to the law of a foreign or alien state or country in which an Indiana life insurance company is doing business, securities belonging to such a company are required to be deposited within the boundaries of such foreign or alien state or country, credit for the amount of such deposit, not exceeding the amount of the reserves on policies issued to residents of, and to corporations doing business in, such foreign or alien state or

1 country, may be taken by the company as an offset against its deposits
2 required under this article.

3 (d) If, pursuant to the law of a foreign or alien state or country, a life
4 insurance company domiciled therein is not permitted a reserve credit
5 for reserves maintained by a reinsurer foreign to such a state or
6 country, except on the condition that the amount of such reserve be
7 deposited with the insurance supervisory official of such state or
8 country, a deposit credit for the amount of such reserves so deposited
9 shall be allowed a domestic life insurance company accepting
10 reinsurance from companies domiciled in such state or country.

11 (e) Any deposit of assets with the department pursuant to any law
12 superseded by this chapter shall, prior to the first deposit date
13 contemplated in subsection (a), be continued with the department and
14 otherwise be subject to this section.

15 (f) The amount of the deposit, except as otherwise provided in
16 subsection (a), shall be one million dollars (\$1,000,000) excluding
17 policy loans and bank deposits, or such greater amount as the
18 department deems necessary to protect the interests of the
19 policyholders of a particular company by an order to the company to
20 deposit additional amounts under this section.

21 (g) Each company:

22 (1) must report to the department each new asset acquisition to
23 establish its eligibility for investment under the numbered
24 categories of permissible investments under section 2 of this
25 chapter at such regular intervals, within the time limit following
26 each interval and on the forms as the department may require,
27 without complying with IC 4-22-2; and

28 (2) when ordered by the department, shall make any additional
29 report relating to:

30 (A) the category of eligibility, the characteristics, or the
31 amount of any investment; or

32 (B) the amount of the assets of the company in any category;
33 calculated under the rules applied for annual statement purposes.

34 SECTION 7. IC 27-14-3-6 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as
36 provided in subsection (b), an MIHC:

37 (1) has and may exercise all the rights and privileges of insurance
38 companies formed under this title; and

- 1 (2) is subject to all the requirements and regulations imposed
 2 upon insurance companies formed under this title.
- 3 (b) The exceptions referred to in subsection (a) are as follows:
- 4 (1) An MIHC does not have the right or privilege to write
 5 insurance (except through an insurance company subsidiary) and
 6 is not subject to any requirement or rule adopted under IC 4-22-2
 7 relating to the writing of insurance.
- 8 (2) An MIHC is not subject to the deposit requirement in
 9 ~~IC 27-1-6-15(d)~~ **IC 27-1-6-15(e) or IC 27-1-6-15.1(b).**
- 10 (3) An MIHC is not subject to any statute or rule adopted under
 11 IC 4-22-2 that is imposed upon insurance companies formed
 12 under this title to the extent that the statute or rule is in conflict
 13 with this article.
- 14 (4) An MIHC is not subject to the investment requirements under
 15 IC 27-1-12 or IC 27-1-13 that limit or restrict investments in
 16 subsidiaries.
- 17 (5) An MIHC is not subject to risk-based capital requirements
 18 under IC 27-1-36.
- 19 (6) An MIHC is not subject to a requirement under IC 27 if the
 20 commissioner determines by order or rule adopted by the
 21 commissioner under IC 4-22-2 that the requirement does not
 22 apply to the MIHC.
- 23 SECTION 8. IC 27-15-14-1 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If a domestic
 25 mutual insurance company:
- 26 (1) is insolvent, as defined in IC 27-9-1-2(l);
 27 (2) does not meet the **applicable** minimum surplus requirements
 28 of IC 27-1-6-15 **or IC 27-1-6-15.1**; or
 29 (3) in the judgment of the commissioner, is in a hazardous
 30 financial condition;
- 31 its board of directors may adopt, and the commissioner may approve,
 32 any plan of conversion and amendment to the articles of incorporation
 33 that, on the effective date of the conversion, would provide for the
 34 former mutual to have paid-in capital stock and surplus in an amount
 35 not less than the minimum requirements of IC 27-1-6-14(c) and
 36 IC 27-1-6-14(e) and an RBC level greater than its company action RBC
 37 level.
- 38 (b) The commissioner may allow waivers or material modifications

1 of the requirement to give any notices to members and policyholders,
2 to obtain member approval of the proposed plan of conversion or
3 amendment to the articles of incorporation of the converting mutual, or
4 to distribute consideration to members if the value of a converting
5 mutual described in subsection (a) does not in the judgment of the
6 commissioner warrant any such notices, approvals, or distribution
7 under the circumstances, including the expenses involved in a
8 distribution of consideration.

(Reference is to HB 1626 as introduced.)

and when so amended that said bill do pass.

Representative Fry